



**DEPARTMENT OF CITY PLANNING**  
CITY OF NEW YORK

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March 17, 2025

**RE: DCP Response to George Janes Analysis of Midtown South Mixed-Use Plan Proposed Rezoning**

Dear Members of Community Board 5,

Thank you for the opportunity to respond to George Janes's Feb. 26 presentation to the CB 5 land use committee analyzing the potential effects of the Department of City Planning (DCP) Midtown South Mixed Use (MSMX) neighborhood plan. We were pleased to hear agreement with the fundamental premise of the MSMX proposal - that the existing manufacturing zoning is largely obsolete, does little to further the city's housing goals in a time of crisis in housing availability and affordability, and results in building forms that do not reflect the existing neighborhood fabric. MSMX would provide a fresh start for the area by allowing housing for the first time, continuing to permit the wide range of commercial and manufacturing uses that already call the area home, and crafting sensible urban design controls.

We would like to provide feedback on the development analysis provided to the Board as it considers the MSMX plan. The MSMX plan would allow housing for the first time in the manufacturing areas of Midtown South and, through the application of Mandatory Inclusionary Housing (MIH), would mandate that between 20% and 30% of all new homes be permanently income-restricted, providing an invaluable opportunity to create nearly 10,000 new homes for New Yorkers close to transit, jobs, and amenities. However, the mapping of MIH in Midtown South does more than just require affordable housing; it also exerts a strong influence on the types of buildings that are likely to be constructed within the rezoned areas. The affordable housing requirement, which includes rules that require affordable units to be distributed across at least 65% of a building's stories and prohibitions on separate entrances, steers development away from supertall luxury condos to more modestly sized rental apartment buildings. The analysis provided to the Board makes some conclusions that are not supported by regulatory or economic conditions, particularly given the application of MIH within the MSMX plan area.

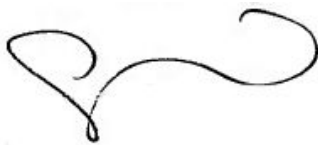
For example, the massing analysis shown for the block bounded by Broadway, Fifth Avenue, West 29th, and West 30th streets assumes that a developer would assemble nearly every lot on the block into a single zoning lot to construct a supertall condo tower in the middle of the block and relegate the affordable units to a separate new-construction rental building elsewhere on the zoning lot. While it is technically possible to comply with MIH requirements with a condominium product, the state's 485-x tax benefit is only available to rental projects. Based on evidence from past projects and from speaking with experts in the real estate development and housing finance space, it is not reasonable to assume that a builder would absorb the costs of providing MIH units without the assistance of 485-x benefits. Further, in the 10 years since these affordable housing regulations have been in existence, there has only been one development in Manhattan that has received new construction tax benefits and located affordable units in a separate building. And because rental units do not command nearly the same price premium for views and high ceilings as condominium units, it is extraordinarily unlikely for a rental building to justify the exorbitant construction and engineering costs of supertall or pencil towers, further lowering the likelihood of supertalls.

In addition, this and the other sites analyzed assume zoning lot mergers that would be highly complex and expensive to undertake. Zoning lot mergers are not uncommon and can provide important flexibility, allowing smaller buildings to be preserved while their excess development rights are utilized elsewhere on the zoning lot. However, while large assemblages such as the one depicted in the analysis may occur from time to time - most often in areas without MIH obligations - this was presented as an essentially frictionless process. In reality, assembling lots is costly and purchasing development rights from a patchwork of different ownership interests takes a significant amount of time and resources to negotiate and close. When the costs of demolition and new construction of multiple buildings are included, as was assumed in the analysis shown to the Board, such large mergers quickly become financially infeasible. In addition, MIH requires that buildings containing affordable units be located on the same street frontage as the primary entrance of the market-rate building and any departure from this standard triggers review by the Department of Housing Preservation and Development, further complicating the ability to segregate affordable units into a building elsewhere on a large zoning lot with multiple existing buildings to remain, as shown in the analysis presented to the Board. For these reasons, together with the incompatibility of condo development and 485-x, there is little incentive to assemble the type of zoning lot merger depicted in the analysis. The analysis of Projected Site 49 also forecasts a single, all-market-rate tower in the center of the block without a rear yard equivalent. Rear yard equivalents are required for zoning lots less than 1.5 acres and, given the aforementioned challenges in merging every underbuilt lot on this block, a scenario with separate towers as depicted in the RWCDs is a more reasonable option on this site.

We appreciate third party perspectives on DCP's work, but it is important to ground any good faith debate in what is reasonable and likely to occur. As was acknowledged during the consultant's presentation, despite being theoretically possible, the three speculative massings would be extremely impractical to develop due primarily to the complexity of mergers, the astronomical construction costs associated with supertall towers, and the stringent affordable housing requirements of MIH and 485-x. It bears noting that the scenarios shared with the Board, while impractical and unlikely, would lead to the creation of dozens of homes for low-income New Yorkers within one of New York City's most desirable and highest opportunity areas where housing is today flatly prohibited. DCP stands by the assumptions made in the Reasonable Worst Case Development Scenario (RWCDs) with respect to anticipated building heights and bulk and wishes to reinforce that MIH and 485-x are powerful tools that create permanent, income-restricted housing and strongly disincentivize supertall condo towers.

I thank CB5 for your thoughtful and careful consideration of this proposal. The MSMX Plan would build on the tremendous potential of this area, which is rich in transit access and proximity to jobs, by utilizing new tools to maximize housing, requiring permanently income-restricted housing via MIH, and crafting sensitive urban design rules that ensure that new buildings feel integrated into the fabric of Midtown South. The MSMX plan can create a home for tens of thousands of New Yorkers and retain the qualities that make Midtown South a unique and special part of the city.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Botsford', with a stylized, flowing script.

Erik Botsford, Director, Manhattan Office